

Major Functional Series 300: Acquisition and Assistance
ADS Chapter 310 - SOURCE, ORIGIN AND NATIONALITY

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	22 CFR 228	

22 CFR 228.11(e)
22 CFR 228, Subpart F
22 CFR 228.54
22 CFR 228.54(d)
ADS 311

Major Functional Series 300: Acquisition and Assistance

ADS Chapter 310 - SOURCE, ORIGIN AND NATIONALITY

310.1 Authority

1. Sections 604(a), 604(c), 604(d), 604(e), and 604(g) of the Foreign Assistance Act of 1961, as amended (FAA).
2. Section 636(i) of the FAA.
3. Section 498B(h) of the FAA.

310.2 Objective

To ensure the goods and **services** financed by USAID meet the requirements of the Foreign Assistance Act (FAA) and provide benefit to the U.S. economy as well as fulfilling the needs of the foreign assistance program.

This chapter is applicable to procurement in dollars (or other foreign exchange) of goods and services financed with USAID program funds. **(For USAID-financed procurement in local currency, see Chapter 311.)** Any commodity obtained under a **long-term lease** agreement is subject to the requirements of this chapter. The appropriate implementing documents will indicate the authorized **source** of procurement. For procurement using Operating Expense funds see ADS 330 **(See ADS 330)**.

310.3 Responsibility

1. The Bureau for Policy and Program Coordination (PPC) is responsible for changes in the composition of the authorized geographic codes.
2. The Bureau for Management, Office of Procurement, Policy Division (M/OP/P) is responsible for developing and interpreting policy concerning source and nationality of commodities and services.
3. The bureau or **mission** with program responsibility is responsible for ensuring that the appropriate authorized source for procurement is designated in implementing documents. They are also responsible for waivers in accordance with the provisions of this chapter.
4. Assistant Administrators (AA), the Director of the Office of Foreign Disaster Assistance (OFDA), and Mission Directors (to the extent they are

redelegated the authority) are responsible for authorizing waivers of source, **origin** and nationality requirements.

5. The Chief of the Bureau for Management, Office of Procurement, Transportation Division (M/OP/TRANS), as delegated from the Assistant Administrator for Management (M/AA), and the Egypt Mission Director are authorized to waive requirements for Transportation Services.

310.4 Definitions (See GLOSSARY [Word](#) | [PDF](#) | [HTML](#))

COMMODITY
* LEAST DEVELOPED COUNTRIES (LLDCs)
LONG-TERM LEASE
MISSION
ORIGIN
SERVICES
SOURCE
USAID GEOGRAPHIC CODE

310.5 POLICY

* **The statements contained within the .5 section of this ADS chapter are the official Agency policies and corresponding essential procedures.**

310.5.1 POLICY ON AUTHORIZED SOURCES OF PROCUREMENT

This section sets forth the sources for procurement, which are normally authorized for USAID-financed transactions. Each USAID obligating document shall specify a **USAID Geographic Code** that defines the eligible source for foreign exchange procurement.

* **Note: the provision of assistance (grants and cooperative agreements) is not limited to the authorized Geographic Code; assistance awards may be made to organizations that are not otherwise restricted by statute or regulation from receiving assistance.**

E310.5.1 Policy on Authorized Sources of Procurement - N/A

310.5.1a AUTHORIZED GEOGRAPHIC CODES

* **1) Code 000 (United States) is the authorized Geographic Code for procurement of goods and services:**

- *
 - a. Under all grants, except those to countries which are designated by the U.N. as "**Least Developed Countries (LLDCs)**" and grants to countries included in Code 110 (New Independent States);
- *
 - b. Under economic support fund loans;
- *
 - c. By USAID (USAID-direct contracts) using funds that are not already obligated in a bilateral agreement which authorizes another Geographic Code;
- *
 - d. By contractors under USAID-direct contracts if the funds are not already obligated in a bilateral agreement which authorizes another Geographic Code; and
- *
 - e. By recipients under grants and cooperative agreements to non-governmental organizations having a total procurement element in excess of \$250,000, except those which are financed under a bilateral agreement which authorizes another Geographic Code.
- *
 - 2) Code 110 (New Independent States) and Code 000 are the authorized Geographic Codes for procurement of goods and services under grants to any of the New Independent States.
- *
 - 3) Code 941 (the United States and less developed countries, excluding foreign policy-restricted countries) is the authorized Geographic Code for procurement of goods and services:
 - *
 - a. Under grants to LLDCs; and
 - *
 - b. Under development loans.
- *
 - 4) Code 935 (any area or country including the cooperating country, but excluding foreign policy-restricted countries) is the authorized Geographic Code for procurement of goods and services:
 - *
 - a. Using funds that are covered by the statutory exemption for the Development Fund For Africa (this takes precedence over the restrictions in 310.5.1a, paras. 1 and 2);
 - *
 - b. Under grants with a total procurement element of \$250,000 or under, using in order of preference - Code 000, the cooperating country, Code 941, and Code 935.

- * 5) The cooperating country is an eligible source in accordance with the policies in ADS Chapter 311 and 22 CFR 228. (See [ADS 311](#))(See Mandatory Reference, [22 CFR 228](#))

E310.5.1a Authorized Geographic Codes - N/A

310.5.1b CONSTRUCTION AND ENGINEERING CONTRACTS

In accordance with Section 604(g) of the FAA, USAID funds must not be used for procurement of construction or engineering services from advanced developing countries, otherwise eligible under Geographic Code 941, "which have attained a competitive capability in international markets for construction services or engineering services," except as provided in subsection (2) of the FAA, Section 604(g). **(See Mandatory Reference, FAA, Section 604(g))**

E310.5.1b Construction and Engineering Contracts - N/A

310.5.1c DETERMINATION OF COUNTRIES IN GEOGRAPHIC CODE 941

To be eligible under Code 941, countries must be non-European with an annual per capita income of \$1,000 or less in 1968 dollars and be eligible to receive U.S. assistance. Countries in the Western Hemisphere south of Cuba, and non-European countries receiving USAID assistance, do not have to meet the per capita income test.

***E310.5.1c Determination of Countries in Geographic Code 941 - N/A**

310.5.1d CHANGES IN GEOGRAPHIC CODES

Changes from the policy sources of procurement or criteria for inclusion in geographic codes as set forth in 310.5.1 through 310.5.1d must be made only by the Administrator (A/AID).

Changes in the composition of geographic codes must be made by the Assistant Administrator of the Bureau for Policy and Program Coordination (AA/PPC).

E310.5.1d Changes in Geographic Codes - N/A

310.5.2 SOURCE, ORIGIN AND NATIONALITY OF GOODS AND SERVICES

In order to be eligible for USAID financing, goods and services for USAID programs must comply with the requirement of 22 CFR 228 **(See Mandatory Reference, [22 CFR 228, Rules on Source, Origin and](#)**

[Nationality for Commodities and Services Financed by the Agency for International Development](#)).

E310.5.2 Source, Origin and Nationality of Goods and Services - N/A

310.5.3 SYSTEMS DETERMINATION

When a system consisting of more than one produced **commodity** is procured as a single, separately priced item, the Strategic Objective team leader, with the concurrence of the cognizant Commodity Management Officer (if any) or the Bureau for Management, Office of Procurement, Commodity Management Division (M/OP/COM), may determine that the system is considered to be a produced commodity in accordance with 22 CFR 228.11(e) (**See Mandatory Reference, [22 CFR 228.11\(e\)](#)**). Program or procurement officials may decide to treat a computer system, defined as the hardware (e.g., CPU, keyboard, monitor, printer) and software (e.g., operating system, utilities), as a produced commodity without further authorization by the Strategic Objective team leader.

E310.5.3 Systems Determination

Systems determinations must be made in writing and included in the procurement or assistance file.

310.5.4 COMMODITIES AVAILABLE FROM GENERAL SERVICES ADMINISTRATION (GSA)

Store stock items purchased through GSA catalogs and items available under contracts negotiated and administered by the Federal Supply Service of GSA are considered U.S. commodities since GSA applies the Buy America requirements of the Federal Acquisition Regulation (**See Mandatory Reference, [FAR Subpart 25.1](#)**).

E310.5.4 Commodities Available From General Services Administration (GSA) - N/A

310.5.5 WAIVERS

***** USAID may expand the authorized Geographic Code, or otherwise agree to finance procurements, which do not meet the requirements of 22 CFR 228, only by processing a waiver. Waiver criteria are set forth in Subpart F of 22 CFR 228 (**See Mandatory Reference, [22 CFR 228, Subpart F](#)**).

E310.5.5 Waivers

All waivers must be in writing, and a copy must be included in the appropriate activity file and in the procurement or assistance file.

310.5.5a AUTHORITY TO APPROVE WAIVERS OF THE AUTHORIZED GEOGRAPHIC CODE

In accordance with ADS 103 Assistant Administrators (AA) and the Director of the Office of Foreign Disaster Assistance (OFDA) have authority to approve waivers of the authorized Geographic Code for procurement for programs within their responsibility in accordance with the provisions of 22 CFR 228 (**See Mandatory Reference, [22 CFR 228](#)**). Mission Directors and USAID Representatives have authority to the extent it is redelegated by the Assistant Administrators.

The Chief of the Bureau for Management, Office of Procurement, Transportation Division (M/OP/TRANS), as delegated from the Assistant Administrator for Management (M/AA), and the Egypt Mission Director have authority to issue waivers for Transportation Services.

E310.5.5a Authority to Approve Waivers of the Authorized Geographic Code

All waivers issued by offices in USAID/W, including waivers included in authorization documents or bilateral agreements with the cooperating country, must indicate consultation with the Bureau for Management, Office of Procurement, Commodity Management Division (M/OP).

310.5.5b AUTHORITY TO APPROVE WAIVERS TO MAKE GOVERNMENT-OWNED ORGANIZATIONS ELIGIBLE

Only the Assistant Administrator or Deputy Assistant Administrator having program responsibility is authorized to approve waivers justified on the grounds of U.S. foreign policy interests (**See Mandatory Reference, [22 CFR 228.54\(d\)](#)**).

The Assistant Administrator or Deputy Assistant Administrator having program responsibility and Mission Directors are authorized to approve waivers based on other criteria in 22 CFR 228.54 (**See Mandatory Reference, [22 CFR 228.54](#)**).

E310.5.5b Authority to Approve Waivers to Make Government-Owned Organizations Eligible

All waivers must be in writing, and a copy must be included in the appropriate activity file and in the procurement or assistance file.

310.6 Supplementary Reference - N/A

310.7 Mandatory Reference

[22 CFR 228](#)
[22 CFR 228.11\(e\)](#)
[22 CFR 228, Subpart F](#)
[22 CFR 228.54](#)
[22 CFR 228.54\(d\)](#)
[ADS 311](#)

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